

**FORM TO BE USED BY PLAINTIFFS IN FILING A COMPLAINT UNDER THE  
EQUAL EMPLOYMENT OPPORTUNITY ACT, 42 U.S.C. Chapter 21, Subchapter  
VI**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Harrisonburg DIVISION

)  
Plaintiff, )

) v. ) Civil Action No.: 5:20-cv-101 ) (To be assigned by Clerk of District Court)

) ) Jury Trial: Yes No ) (circle one)

Defendant(s). )

(Enter the full name(s) of ALL parties in this lawsuit. )

Please attach additional sheets if necessary. )

CLERK'S OFFICE U.S. DIST. COURT  
AT HARRISONBURG, VA  
FILED

DEC 14 2020

JULIA C. DUDLEY, CLERK  
BY:   
DEPUTY CLERK

**COMPLAINT**

1. State the full name of the Plaintiff, address and telephone number.

Name: David Clay Coleman

Address: 11600 North Valley Pike Broadway, VA 22815

Telephone Number: 540 - 335 - 3533

2. List all Defendants. State the full name of the Defendant, even if that Defendant is a government agency, an organization, a corporation, or an individual. Include the address where each Defendant may be served. Make sure that the Defendant(s) listed below are identical to those contained in the above caption of the complaint.

a. Defendant No. 1

Name: Wal-Mart, Inc.

Address: 375 South Main Street Timberville, VA 22853

b. Defendant No. 2

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**NOTE: IF THERE ARE ADDITIONAL DEFENDANTS, PLEASE PROVIDE THEIR**

NAMES AND ADDRESSES ON A SEPARATE SHEET OF PAPER. Check here if additional sheets of paper are attached:

Please label the attached sheets of paper to correspond to the appropriate numbered paragraph above (e.g. Additional Defendants 2.c., 2.d., etc.).

3. On what day were you discharged from employment or otherwise affected by the alleged unlawful employment practice(s) of the defendant(s) above?

1/23/2020

4. On what day was your complaint filed with the Equal Employment Opportunities Commission?

4/02/2020

5.

What action did the Commission or its representatives take in regard to your complaint?

Had a telephone conference call on 3/20/2020  
and got a letter 3 days saying I did commit  
theft with Wal-Mart not releasing the video

6. If no action was taken or if your complaint was dismissed by the Commission, did you receive notice from the Commission within 180 days of the date listed in 4. above, of your right to bring a civil action to correct the alleged unlawful employment practice(s)?

Yes

7. If the answer to 6. is yes, has 90 days passed since your receipt of the notice described in 6.?

No

8. Has any action been brought in any state court or in any other federal court concerning the alleged unlawful employment practice(s) of the above defendant(s)?

No

If your answer to 8. is yes, describe the action in the spaces below.

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a. Parties to the action:

\_\_\_\_\_

b.

Court (if federal court, give district; if state court, name the city or county):

c.

Docket Number: \_\_\_\_\_ d.

Judge's Name: \_\_\_\_\_ e.

Is the case still pending: \_\_\_\_\_ If not, what was the ruling? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Was the case appealed? \_\_\_\_\_

If more than one action has been filed, please provide this information on a separate sheet of paper and label this information as paragraph 8.f., etc. Check here if additional sheets of paper are attached:

9. Are there any state or local agencies presently making active efforts to obtain a voluntary end to the alleged unlawful employment practice?

Yes  No  I DON'T KNOW

If yes, please describe which agencies are involved and whether their efforts are being undertaken on your behalf?

\_\_\_\_\_  
\_\_\_\_\_

On the remainder of this form, please answer the questions relating to your problems with the defendant(s) and, if necessary, include additional sheets of paper in order to fully explain the facts beyond your complaint.

A. What was or is your employer? Wal-Mart, Inc.

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B. What individuals were involved in your discharge or other unlawful practice about which

you are complaining? (Also explain what position each individual held, what that individual did that affected you, and about which you are complaining?)

No complaint against any individuals, the only complaint is the company itself which is Wal-Mart, Inc. in general

c.

If you were fired, what reasons were given for your discharge?

Fired because Wal-Mart Asset Protection observed me supposedly stealing on two separate occasions in December of 2019 and then fired in January of 2020

If you disagree with those reasons, what do you think were the real reasons?

The real reason is me costing the company around \$540,000 in medical claims due to my

many surgeries over a 5 year period. That is discrimination, plus not showing a video of said theft. I want the video released or I personally don't think Wal-Mart has a video

D. Does your employer have a grievance procedure to use when employees are unhappy about actions taken against them? I am not sure but

E. If so, did you file a grievance with your employer?

I got a lawyer and Wal-Mart did not like it

If you did, what action was taken? Action made it to the

EEOC and their findings are biased and untrue.

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F. In the space below (and on additional sheets of paper, if necessary), please state any other facts which you consider important in this complaint.

Fact is I never stole anything in my life and told this to the Asset Protection personnel. She kept on browbeating me to say I stole in which I did not. I was very adamant I didn't steal and told AP you observed me on 2 occasions in December 2019 for theft and told AP that you will not call the police because the supposedly amount I stole was below a certain amount. Plus, I asked for the video and AP said no in which I replied you won't show me the video. Four months later found out that through Unemployment or EEOC that the amount was 2 or 3 candy bars totaling \$3.24. Proper procedure is or was not followed on the day of my firing. If I supposedly stole then why are going to fire me a month later instead of the supposedly 2 days in December. You would fire me right on the spot. This case is a discrimination based on medical leave of absence due to my glaucoma and claims totaling around \$540,000 or more.

I had insurance which was short-term disability to allow me to take time off for my multiple surgeries. Each time, no manager at Wal-Mart complained about my production when I returned to work and not even the employees I worked with.

In conclusion, if Wal-Mart had a video in which they say they do, then I want to see it for my own eyes, not just for Wal-Mart to say you stole and your fired. Plus, in the EEOC review, an assistant manager said the photos were grainy, so if they are grainy, then how do you know it is me supposedly taking items in December of 2019. On other note, I applied for unemployment benefits and in April of 2020 it was taken

away because I had a lawyer and filed with the EEOC. Wal-Mart said I had to pay \$4891 back.

G. If you were fired, have you been working since that time? No, because I had 2 more surgeries so I couldn't see to go to ~~work~~ work  
If yes, for whom have you worked? Work now at Howell Metal since 11/30/2020

What did you do? I had 2 other surgeries, recovery If

you did not get another job, have you received unemployment compensation? No/Yes  
No job until 11/30/2020

None

H. What relief do you want from this court? For example:

Do you want your job back?

NO

Have you suffered any damages? Yes, monetary, more medical

If so, how much? Pain and suffering, constantly worrying

OTHER:

Constantly worrying about a job

took my constant pay check away every  
two weeks

Attach additional sheets of paper as necessary and label this information as paragraph I., etc. Check here if additional sheets of paper are attached.

Signature of Plaintiff Daniel Eby, Jr. VERIFICATION

State of Virginia

County of Rockingham

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 13 day of December 2020

Signature of Plaintiff Daniel Eby, Jr.